

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Whitney Beber	Team: Squad #8	CCRB Case #: 201807590	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/05/2018 1:00 AM	Location of Incident: Tompkins Avenue and Broad Street	Precinct: 120	18 Mo. SOL 3/5/2020	EO SOL 3/5/2020	
Date/Time CV Reported Wed, 09/05/2018 1:30 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 09/14/2018 11:19 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ryan Harkins	10194	961805	120 PCT
2. An officer			120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Alexander Bustamante	03890	950133	120 PCT
2. POM Patrick Antosiewicz	10976	964375	120 PCT
3. POM Edward Sciarillo	11932	961637	120 PCT
4. POM Dmitriy Luzanov	16698	955105	120 PCT
5. POM Andrew Tagliaferro	22386	962827	120 PCT
6. POM David Mohlenhoff	10382	956105	120 PCT
7. SGT Yehuda Sirota	04393	952246	120 PCT
8. POM Nick Ou	11236	964692	120 PCT
9. POM Christian Pinez	08445	957958	120 PCT
10. POM Michael Fasano	00410	963510	120 PCT
11. POM Jimmy Ramirez	21196	931000	120 PCT
12. POM Vincent Iovine	20346	964068	120 PCT
13. POM Steven Westgate	19086	962871	120 PCT
14. POM Jason Li	18095	961887	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Ryan Harkins	Force: Police Officer Ryan Harkins used physical force against § 87(2)(b)	
B. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
C. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	

Case Summary

On September 5, 2018, § 87(2)(b) filed a complaint with the Internal Affairs Bureau under original log number 2018-34690. On September 14, 2018, the Civilian Complaint Review received the complaint.

On September 5, 2019, at approximately 1:00 a.m. at Tomkins Avenue and Broad Street in Staten Island, Police Officer Ryan Harkins, Police Officer Andrew Taglioferro, Police Officer Patrick Antosiewicz, Police Officer Dmitriy Luzonov, and Police Officer Edward Sciarillo of the 120th Precinct approached § 87(2)(b) at a bus stop. § 87(2)(b) ran and was taken to the ground by Police Officer Harkins, (**Allegation A: Force**, § 87(2)(g)). Once on the ground, an unidentified officer said, “Give us your fucking arms,” (**Allegation B: Discourtesy**, § 87(2)(g)). As the officers put § 87(2)(b) in the ambulance, an unidentified officer said to § 87(2)(b) “You’re already in handcuffs so you might as well just fucking stop,” (**Allegation C: Discourtesy**, § 87(2)(g)).

Twenty-one body worn camera videos were obtained for this incident (Board Review 1-21). Surveillance footage from NYPD Argus camera § 87(2)(b) was also obtained for this incident (Board Review 22).

§ 87(2)(a) 160.50, § 87(2)(b)

An investigation into the force was opened by Patrol Borough Staten Island Investigations and the status of the case is pending.

Findings and Recommendation

Allegation A-Force: Police Officer Ryan Harkins used physical force against § 87(2)(b)

Given that the investigation was unable to contact § 87(2)(b) and § 87(2)(b) was ultimately uncooperative with the investigation, no sworn statement was obtained for the investigation. This case proceeded based on the body-worn camera footage obtained from the officers involved in this incident.

As per § 87(2)(b) telephone statement, PO Harkins and other officers exited their vehicles and approached § 87(2)(b). They instructed him to get down on the ground. After he complied, two officers approached him and held him on the ground.

As per PO Harkins on September 5, 2019, at approximately 1:00 a.m. at Tomkins Avenue and Broad Street, PO Harkins stopped § 87(2)(b) because he recognized him as a wanted individual who had a probable cause to arrest I-Card (Board Review 23). Police Officer Taglioferro, Police Officer Antosiewicz, Police Officer Luzonov, Police Officer Sciarillo of the 120th Precinct approached § 87(2)(b). PO Harkins asked for § 87(2)(b)'s identification and § 87(2)(b) replied that he did not have his identification. PO Harkins asked him what his name was and § 87(2)(b) told PO Harkins his name was § 87(2)(b). PO Harkins explained that

he knew who § 87(2)(b) was and asked for his identification again. § 87(2)(b) again stated that he did not have it on him. PO Harkins explained to § 87(2)(b) that providing a false name to the police was an offense for which he could be arrested. § 87(2)(b) then flicked a cigarette at PO Harkins and fled, running to the right of PO Harkins. PO Harkins grabbed the undershirt/tank top § 87(2)(b) was wearing, PO Harkins tripped, and his feet and § 87(2)(b)'s feet collided together. § 87(2)(b) fell to the ground and PO Harkins fell on top of him. PO Harkins handcuffed § 87(2)(b). No officers assisted in taking § 87(2)(b) to the ground.

Sgt. Bustamante's body-worn camera depicts § 87(2)(b) run away from the officers at 25 seconds (Board Review 01). An officer appears to grab § 87(2)(b). The screen goes black at 30 seconds. The video did not depict any officers taking § 87(2)(b) to the ground.

At 35:17 minutes of the surveillance footage obtained from NYPD Argus camera § 87(2)(b) located at Broad Street and Canal Street, § 87(2)(b) is seen running in the direction of the parking lot, towards Broad Street and at least one officer brings him to the ground (Board Review 22).

In complaint report § 87(2)(b) PO Harkins noted that § 87(2)(b) fled on foot (Board Review 25).

TRI #§ 87(2)(b) notes that PO Harkins used a forcible take down. The boxes were checked that the force was used in defense of self, other officers, overcoming resistance or aggression and because the suspect fled (Board Review 25).

Patrol Guide Section 221-01 states that force may be used when it is reasonable to place a person in custody or to prevent escape from custody (Board Review 26). In all circumstances the force must be reasonable under the circumstances. It is determining whether the use of force is reasonable officers should consider the actions taken by the subject and whether the subject is attempting to evade arrest by flight.

It is undisputed that there was an open complaint against § 87(2)(b) § 87(2)(a) 160.50, § 87(2)(b) § 87(2)(b). Prior to § 87(2)(b) running, PO Harkins had, for all intent and purposes, told him that he had committed an offense for which he could have been arrested.

§ 87(2)(g)

Allegation B-Discourtesy: An officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) Iron did not mention officers using any profanity in her telephone statement.

As per PO Harkins, he did not tell § 87(2)(b) to, "Give us your fucking arms." He did not hear an officer use profanity when speaking to § 87(2)(b). After § 87(2)(b) was handcuffed he complained about his arm, so an ambulance was called.

Sergeant Bustamante's body-worn camera shows that after § 87(2)(b) runs and is taken down, officers can be seen leaning over § 87(2)(b) while he is on the ground. At approximately 00:32 of the video, officers tell § 87(2)(b) to give them his hands, give them his arm and to stop resisting. At 00:48 seconds, an officer says, "Give us your fucking arms." At the time this statement was made, there is only audio and the screen is black, which is often indicative of very close contact and physical movement.

§ 87(2)(a) 160.50, § 87(2)(b)

DAO-DCT Case number 2017-17005 states that the tribunal has held that profane remarks, made during stressful situations or while an officer is trying to get a chaotic situation under control, are not misconduct (Board Review 27).

At the time § 87(2)(b) was told, "Give us your fucking arm," the officers are in the process of handcuffing § 87(2)(b) who had attempted to flee.

It is undisputed that the officers had to engage physically with § 87(2)(b). The physical interaction and § 87(2)(b)'s attempt to flee created what could reasonably be understood as a stressful situation. § 87(2)(g)

Allegation C-Discourtesy: An officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) did not mention officers using any profanity in her telephone statement.

This allegation is being pled against "an officer" because the body-worn camera footage did not capture who made the statement alleged, PO Harkins denied having done so or having heard another officer make that statement.

As per PO Harkins, § 87(2)(b) dragged his feet and tried to throw himself onto the ground outside of the ambulance. PO Harkins did not hear an officer say, "You're already in handcuffs, so you might as well just fucking stop." PO Harkins did not remember making that statement to § 87(2)(b).

At 11:48 minutes, Police Officer Andrew Tagliaferro's body-worn camera captured an officer say to § 87(2)(b) outside of the ambulance, "You're already in handcuffs so you might as well just fucking stop." The camera does not capture who makes this statement.

Be § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
- § 87(2)(b) [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
- PO Harkins has been a member of the CCRB for two years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED].

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation due to § 87(2)(b) [REDACTED] being arrested.
- A Notice of Claim Request was submitted to the Comptroller's Office on March 8, 2019, and will be added to the case file upon receipt.
- § 87(2)(b); §§ 86(1)(3)(4); § 87(2)(c) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- § 87(2)(b); §§ 86(1)(3)(4); § 87(2)(c) [REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

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Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date
Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date